

\_\_\_\_\_. Reparation on basis of Board's decision.

\_\_\_\_\_. Charges paid by.<sup>1</sup>

Claimant hereby certifies that this statement includes claims only on shipments covered by the findings in the docket above described and contains no claim for reparation previously filed with the Board by or on behalf of claimant or, so far as claimant knows, by or on behalf of any person, in any other proceedings, except as follows: (Here indicate any exceptions, and explanation thereof).

\_\_\_\_\_  
By \_\_\_\_\_  
(Claimant)  
(Practitioner)  
\_\_\_\_\_  
(Address)  
\_\_\_\_\_  
(Date)

Total amount of reparation \$ \_\_\_\_\_. The undersigned hereby certifies that this statement has been checked against the records of this company and found correct.

Date \_\_\_\_\_ Concurred<sup>2</sup> in: \_\_\_\_\_ Company  
\_\_\_\_\_. Company, Defendant Collecting Carrier, Defendant<sup>3</sup>.  
By \_\_\_\_\_, Auditor. By \_\_\_\_\_, Auditor.

(b) The statement should not include any shipment not covered by the Board's findings, or any shipment on which complaint was not filed with the Board within the statutory period. The filing of a statement will not stop the running of the statute of limitations as to shipments not covered by complaint or supplemental complaint. If the shipments moved over more than one route, a separate statement should be prepared for each route, and separately numbered, except that shipments as to which the collecting carrier is in each instance the same may be listed in a single statement if grouped according to routes. The statement, together with the paid freight bills on the shipments, or true copies thereof, should then be forwarded to the carrier which collected the charges, for verification and certification as to its accuracy. If the statement is not forwarded immediately to the collecting carrier for certification, a letter request from de-

fendants that forwarding be expedited will be considered to the end that steps be taken to have the statement forwarded immediately. All discrepancies, duplications, or other errors in the statements should be adjusted by the parties and corrected agreed statements submitted to the Board. The certificate must be signed in ink by a general accounting officer of the carrier and should cover all of the information shown in the statement. If the carrier which collected the charges is not a defendant in the case, its certificate must be concurred in by like signature on behalf of a carrier defendant. Statements so prepared and certified shall be filed with the Board whereupon it will consider entry of a decision awarding damages.

[47 FR 49575, Nov. 1, 1982, as amended at 64 FR 53268, Oct. 1, 1999]

## PART 1135—RAILROAD COST RECOVERY PROCEDURES

AUTHORITY: : 5 U.S.C. 553 and 49 U.S.C. 721 and 10708.

### §1135.1 Quarterly adjustment of rates.

(a) Rail carriers may adjust rates and charges quarterly in order to compensate for inflationary cost increases. The quarterly adjustment shall not exceed the percentage change in the all inclusive index of railroad costs as proposed by the Association of American Railroads and modified by the Board. The Board will make modifications of the revisions to the index as necessary.

(b) The allowable increase will be based on a projection of the index to the midpoint of the quarter to which the index will apply. The percentage change must be calculated from a comparison of the forecast index for the midpoint of the quarter during which the rates will be in effect with the forecast index for the midpoint of the previous quarter. Each quarterly index will be adjusted for forecast error in the index issued six months earlier. The adjustments will be made by adding or subtracting, as appropriate, the difference between the index using actual data for the second prior quarter and the index using forecasted data for that quarter. Additionally, AAR shall

<sup>1</sup>Here insert name of person paying charges in the first instance, and state whether as consignor, consignee, or in what other capacity.

<sup>2</sup>For concurring certificate in case collecting carrier is not a defendant.

<sup>3</sup>If not a defendant, strike out the word "defendant."

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file an index adjusted for productivity changes. The adjustment will be made by applying the multi-year average annual growth in productivity spread evenly over four quarters, compounded each quarter. Productivity adjustments shall compound in the same manner as rate changes.

(c) The Association of American Railroads must file its calculations with the Board on the fifth day of the last month of the prior quarter (or the closest business day if the fifth is a Saturday, Sunday or holiday). The calculations are to be for the mid-point of the next quarter.

(d) Tariffs containing adjustments under the provisions of this rule may be filed to become effective on not less than ten days notice when the Rail Cost Adjustment Factor adopted by the Board does not differ from that proposed by the Association of American Railroads. When the Rail Cost Adjustment Factor adopted by the Board differs from that proposed by the Association of American Railroads the notice period shall be not less than five days. Reductions to rates published in the initial RCCR tariff may be published on one day's notice during the period between the publication of the tariff and the first day of the calendar quarter for which that tariff applies.

(e) Increases in rates consistent with these standards will not be investigated or suspended by the Board unless the filing results in a double recovery of inflation-based cost increases.

(f) All cost recovery tariffs filed with the Board shall state that they are being filed in conformity with the rules in 49 CFR 1135.1 and 1312.17(k), and shall be amended under the same timetable applicable to rate increases, to reflect declines in the cost index. Any declines in the index below the level in effect on December 31, 1985, will be addressed by postponing authorizations for future cost recovery rate increases pursuant to a "banking" procedure described more fully in Ex Parte No. 290 (Sub-No. 2), *Railroad Cost Recovery Procedures*, served October 17, 1986.

(g) In accordance with the procedures outlined in §1312.17(k), each carrier shall timely file (either directly or through a duly authorized tariff-publishing agent) with the regulatory au-

thority of each State in which it operates, all tariffs filed with the Board in accordance with these procedures. The carrier will file with the State at the same time that it files with the Board.

[46 FR 22599, Apr. 20, 1981; 46 FR 51255, Oct. 19, 1981, as amended at 46 FR 55270, Nov. 9, 1981. Redesignated and amended at 47 FR 49576, Nov. 1, 1982; 50 FR 88, Jan. 2, 1985; 50 FR 37534, Sept. 16, 1985; 50 FR 43396, Oct. 25, 1985; 51 FR 37035, Oct. 17, 1986; 54 FR 12920, Mar. 29, 1989; 61 FR 7427, Feb. 28, 1996]

### PART 1137—PROCEDURES RELATING TO RAILROAD REVITALIZATION AND REGULATORY REFORM ACT OF 1976

Sec.

1137.1 Divisions of revenue cases.

1137.2 Expeditious procedures for publication of separate rates for distinct services.

AUTHORITY: 49 U.S.C. 721, 10705.

#### §1137.1 Divisions of revenue cases.

(a) *Notice of intent to file complaint.*

(1) An original and 10 copies shall be filed for Board use. Complainant shall serve copies of the notice upon each party (each receiver or trustee if a bankrupt line) to the joint rate.

(2) The notice of intent shall state generally: The involved traffic and applicable joint rates, the territorial scope, the participating railroads, and the present and proposed divisions.

(3) The notice shall include a statement indicating when filing of the formal complaint is expected. The formal complaint may not be filed more than one year after the filing of the notice of intent, unless the Board approves an extension of time. Lack of diligence in filing of the formal complaint may result in dismissal of the action.

(b) *Notice of intent to file cross complaint.* These notices shall be filed within 30 days from service of the original notice and are subject to the requirements in paragraph (a) of this section.

(c) *Formal complaint (and cross complaint).* The formal complaint (and cross complaint) shall be filed no sooner than 120 days after the filing of the notice of intent unless good cause is shown either for not filing a notice or for a shorter notice period. The request